

1-200A056

REBOUL, MACMURRAY, HEWITT, MAYNARD & KRISTOL

45 ROCKEFELLER PLAZA

NEW YORK, N. Y. 10111

WILLIAM J HEWITT
HOWARD G KRISTOL
JOHN C MACMURRAY
JOHN MAYNARD
JOHN W REBOUL
WAYNE A CROSS
WILLIAM F MCCORMACK
JOHN C NOVOGROD
ROBERT SCHEFF
ROBERT A SCHWED
DAVID S ELKIND
CHARLES D UNIMAN
ROBERT P DEVLIN
JAMES E MAGEE (D C BAR)
ROBERT L SILLS
CHARLES W SPRAGUE
WILLIAM I SUSSMAN
MARK J TANNENBAUM
ANDREW P TASHMAN
ROBERT M PEAK
ROBERT COULTAS
EDWARD A McDONALD

17444
RECORDATION NO. FILED 1425

JUL 19 1991 - 3 05 PM

INTERSTATE COMMERCE COMMISSION
July 19, 1991

TELEPHONE (212) 841-5700
TELEX 620525
TELECOPIER (212) 841-5725

SUITE 728
523 WEST SIXTH STREET
LOS ANGELES, CALIF 90014
TELEPHONE (213) 612-0822
TELECOPIER (213) 895-0108

SUITE 406
1111 NINETEENTH STREET, N W
WASHINGTON, D. C 20036
TELEPHONE (202) 429-0004
TELECOPIER (202) 429-8743

MICHAEL DOWNEY RICE
COUNSEL

Mr. Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
Washington, DC 20423

Dear Secretary:

Enclosed are counterparts of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code:

Equipment Trust Agreement, dated as of July 1, 1991, a primary document.

The names and addresses of the parties to the document are as follows:

Debtor: The Connecticut National Bank, as trustee
777 Main Street
Hartford, Connecticut 06115

Trustee and
Secured Party: The Chase Manhattan Bank, National Association
One New York Plaza
New York, New York 10081

The equipment covered by the document consists of 35 General Electric Corporation model Dash 8-40C diesel electric locomotives, bearing the road numbers of Chicago and North Western Transportation Company 8543 through 8577.

A short summary of the document to appear in the index is as follows:

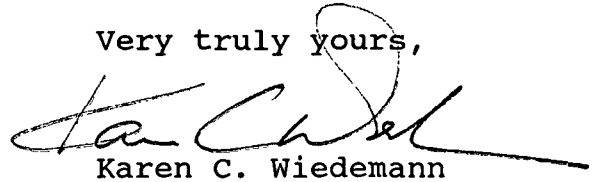
58851.1

16 JUL 19 1991

Equipment Trust Agreement, dated as of July 1, 1991,
between The Connecticut National Bank, as trustee, and
The Chase Manhattan Bank, as trustee and secured party.

A fee of \$15.00 is enclosed. Please return any extra
copies not needed by the Commission for recordation to James E.
Magee of this firm at 1111 19th Street, N.W., Washington, D.C.
20036.

Very truly yours,



Karen C. Wiedemann

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

7/19/91

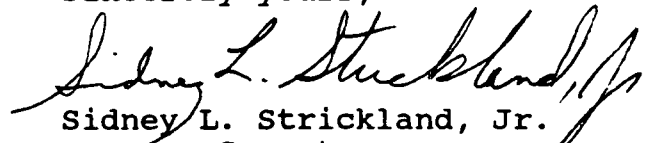
OFFICE OF THE SECRETARY

Karen C. Wiedemann
Reboul, MacMurray, Hewitt,
Maynard & Kristol
45 Rockefeller Plaza
New York, New York 10111

Dear Sirs:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 7/19/91 at 3:05PM, and assigned recordation number(s). 17444 and 17445. 17445-A.

Sincerely yours,


Sidney L. Strickland, Jr.
Secretary

17444
REGISTRATION NO. FILED 1425

JUL 19 1991 -3 05 PM

INTERSTATE COMMERCE COMMISSION

EQUIPMENT TRUST AGREEMENT

dated as of July 1, 1991

between

THE CONNECTICUT NATIONAL BANK,
as Trustee under a Trust Agreement,

and

THE CHASE MANHATTAN BANK, NATIONAL ASSOCIATION

EQUIPMENT TRUST NUMBER 1 OF 1991
SECURED BY LEASE OBLIGATIONS OF
CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

TABLE OF CONTENTS

ARTICLE ONE SECURITY

SECTION 1.1.	<u>Grant of Security Interest</u>	2
SECTION 1.2.	<u>Filing and Recordation</u>	3
SECTION 1.3.	<u>Release of Security Interests</u>	4
SECTION 1.4.	<u>Further Assurances</u>	5

ARTICLE TWO ENFORCEMENT OF LEASE

SECTION 2.1.	<u>Allocation of Lessor's Rights</u>	5
SECTION 2.2.	<u>Power of Attorney</u>	6
SECTION 2.3.	<u>Payments under the Lease</u>	6
SECTION 2.4.	<u>Enforcement After Default</u>	7
SECTION 2.5.	<u>Application of Proceeds</u>	8
SECTION 2.6.	<u>Right to Cure Defaults</u>	8

ARTICLE THREE ISSUE, EXECUTION, AUTHENTICATION, AND FORM OF CERTIFICATES

SECTION 3.1.	<u>Maximum Authorized Issue</u>	9
SECTION 3.2.	<u>Issuance of Certificates; Proceeds</u>	9
SECTION 3.3.	<u>Characteristics of Certificates</u>	9
SECTION 3.4.	<u>Home Office Payment</u>	10
SECTION 3.5.	<u>Authentication</u>	11
SECTION 3.6.	<u>Execution of Certificates</u>	11
SECTION 3.7.	<u>Limitation on Source of Payments</u>	12
SECTION 3.8.	<u>Deposit of Withholding Taxes</u>	12

ARTICLE FOUR REGISTRATION, TRANSFER, EXCHANGE, CANCELLATION AND OWNERSHIP OF CERTIFICATES

SECTION 4.1.	<u>Register of Certificates</u>	12
SECTION 4.2.	<u>Inspection of Register of Certificates</u>	12
SECTION 4.3.	<u>Cancellation of Certificates</u>	13
SECTION 4.4.	<u>Exchange or Transfer of Certificates</u>	13
SECTION 4.5.	<u>Destroyed, Mutilated, Lost or Stolen Certificates</u>	14
SECTION 4.6.	<u>Ownership of Certificates</u>	14

ARTICLE FIVE PREPAYMENT

SECTION 5.1.	<u>Partial Prepayment as Result of Casualty Occurrence or Early Termination</u>	15
SECTION 5.2.	<u>Mandatory Prepayment upon Termination of the Lease</u>	16
SECTION 5.3.	<u>Optional Prepayment after Default under the Lease</u>	16
SECTION 5.4.	<u>Allocation of Partial Prepayment</u>	17

ARTICLE SIX
COVENANTS; LIMITATION OF LIABILITY

SECTION 6.1.	<u>Covenants of Owner Trustee</u>	18
SECTION 6.2.	<u>Limitation of Liability</u>	19

ARTICLE SEVEN
EVENTS OF DEFAULT; REMEDIES

SECTION 7.1.	<u>Events of Default</u>	21
SECTION 7.2.	<u>Limitations on Exercise of Remedies</u>	23
SECTION 7.3.	<u>Specific Remedies</u>	24
SECTION 7.4.	<u>Application of Proceeds</u>	25
SECTION 7.5.	<u>Right of Redemption</u>	26
SECTION 7.6.	<u>Enforcement of Claims Without Possession of Certificates</u>	27
SECTION 7.7.	<u>Rights and Remedies Cumulative; No Waiver</u>	27
SECTION 7.8.	<u>Restoration of Rights and Remedies</u>	28

ARTICLE EIGHT
THE SECURITY TRUSTEE

SECTION 8.1.	<u>Ministry of Trust</u>	28
SECTION 8.2.	<u>Implied Duties</u>	29
SECTION 8.3.	<u>Care</u>	29
SECTION 8.4.	<u>Holders of Certificates</u>	30
SECTION 8.5.	<u>Attribution of Knowledge; Notice</u>	30
SECTION 8.6.	<u>Errors; Reliance; Selection of Counsel</u>	30
SECTION 8.7.	<u>Limitations on Duties</u>	31
SECTION 8.8.	<u>Disclaimer</u>	32
SECTION 8.9.	<u>Resignation and Removal of Security Trustee; Appointment of Successor; Co-Trustees</u>	32
SECTION 8.10.	<u>Intermingling of Funds</u>	33
SECTION 8.11.	<u>Compensation</u>	34
SECTION 8.12.	<u>Expiry of Trust</u>	34

ARTICLE NINE
MISCELLANEOUS

SECTION 9.1.	<u>Method of Notice</u>	34
SECTION 9.2.	<u>Indemnities to Survive</u>	35
SECTION 9.3.	<u>Change of Location of the Office of the Security Trustee</u>	35
SECTION 9.4.	<u>Holders of Certificates</u>	35
SECTION 9.5.	<u>Amendments and Waivers</u>	35
SECTION 9.6.	<u>Entire Agreement</u>	36
SECTION 9.7.	<u>Law Governing</u>	36
SECTION 9.8.	<u>Recourse</u>	36
SECTION 9.9.	<u>Invalidity of Provisions</u>	36
SECTION 9.10.	<u>Counterparts</u>	37
SECTION 9.11.	<u>Effectiveness</u>	37

INDEX TO DEFINITIONS

Casualty Occurrence	15
Certificates	1
Collateral	2
Equipment	1
Event of Default	20
Excluded Interests	2
Income and proceeds from the Collateral	19
Lease	1
Lease Event of Default	5
Lessee	1
Overdue Rate	10
Owner	1
Owner Trustee	1
Participation Agreement	1
Purchase Price	15
Security Trustee	1
Trust Agreement	1

EQUIPMENT TRUST AGREEMENT dated as of July 1, 1991, between THE CONNECTICUT NATIONAL BANK, a national banking association, not in its individual capacity but solely as trustee under the trust agreement described below (hereinafter, in such capacity, called the **Owner Trustee**), and THE CHASE MANHATTAN BANK, NATIONAL ASSOCIATION, a national banking association (hereinafter together with its successors and assigns hereunder being called the **Security Trustee**).

WHEREAS the Owner Trustee is acting as trustee under a Trust Agreement dated as of the date hereof (hereinafter called the **Trust Agreement**) between the Owner Trustee and General Electric Capital Corporation (hereinafter called the **Owner**);

WHEREAS the Owner Trustee, acting on behalf of the Owner, will purchase the equipment described in Schedule A hereto (such equipment so described as shall be subject to this agreement from time to time being hereinafter called the **Equipment**);

WHEREAS the Owner Trustee will lease the Equipment to Chicago and North Western Transportation Company (hereinafter called the **Lessee**) pursuant to the Lease of Railroad Equipment dated as of the date hereof (hereinafter called the **Lease**);

WHEREAS, in order to finance a portion of the purchase price of the Equipment, the Owner Trustee will issue equipment trust certificates substantially in the form of Annex A hereto (hereinafter called the **Certificates**) pursuant to the terms hereof and of a Participation Agreement dated as of the date hereof (hereinafter called the **Participation Agreement**) among the Lessee, the Owner, the Owner Trustee, and the other parties therein named;

WHEREAS the Owner Trustee agrees to make payments to the Security Trustee in amounts sufficient to enable the Security Trustee to pay the principal of and interest on the Certificates, the liability of the Owner Trustee being limited solely to the rents due and to become due under the Lease and to the income and proceeds from the Equipment;

WHEREAS the interest of the Owner Trustee in the Equipment and in the Lease is to be assigned and granted to and retained by the Security Trustee, except as provided below with respect to Excluded Interests (as herein defined), in trust for the holders of the Certificates as security for the obligations of the Owner Trustee hereunder; and

WHEREAS the trust created hereby shall be known as EQUIPMENT TRUST NO. 1 OF 1991, SECURED BY LEASE OBLIGATIONS OF CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY.

Equipment Trust Agreement

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the parties hereto hereby agree as follows:

ARTICLE ONE SECURITY

SECTION 1.1. Grant of Security Interest. As security for the due and punctual payment of the principal of and premium, if any, and interest on the Certificates and the performance and observance by the Owner Trustee and the Owner of all the covenants made by or on their behalf and the conditions contained in this agreement and in the Participation Agreement, the Owner Trustee hereby

(a) grants to the Security Trustee, for the benefit of the holders of the Certificates, a security interest in all of the Owner Trustee's right, title and interest in and to the Equipment described in Schedule A hereto and all units of equipment substituted therefor pursuant to the Lease, the bills of sale and manufacturers' warranties in respect thereof, all improvements and additions now or hereafter made or affixed thereto, all cash or noncash proceeds therefrom, and all amounts deposited by the Lessee pending substitution of units under the Lease; and

(b) assigns to the Security Trustee, for the benefit of the holders of the Certificates, all of the Owner Trustee's right, title and interest in and to the Lease and all payments, including, without limitation, the immediate and continuing right to all payments of rent due or to become due thereunder;

excluding, however, the Excluded Interests, as defined below (all of the foregoing granted hereby, subject to such exclusions, being herein called the Collateral). Such security interest shall attach upon the execution of this agreement, the Lease, and the Participation Agreement by the respective parties thereto.

There shall be excluded from the foregoing grant of security interest and assignment the following (herein called **Excluded Interests**):

(i) any indemnity payable to the Owner Trustee, whether in its individual capacity or as trustee, pursuant to section 6 or 9 of the Lease;

(ii) any proceeds of insurance maintained by the Owner

Equipment Trust Agreement

Trustee that shall be in addition to the insurance required to be maintained by the Lessee pursuant to the terms of the Lease, and any proceeds of public liability insurance policies carried for the benefit of the Owner Trustee;

(iii) any rights against the Lessee acquired by subrogation to the rights of the Security Trustee pursuant to section 2.6 hereof, and any other amounts payable by the Lessee to reimburse the Owner Trustee for payments made by it pursuant to Section 22 of the Lease; and

(iv) the right to recover costs and expenses of enforcement of the obligations, and interest payable in respect thereof, referred to in the foregoing clauses (i) through (iii).

The Owner Trustee shall have the right to enter into or consent to any amendment, modification, or waiver of the provisions of the Excluded Interests that shall not adversely affect the rights of the Security Trustee without the consent of the Security Trustee; provided, however, that if an Event of Default (as defined in section 7.1 hereof) shall have occurred and shall be continuing, the Owner Trustee shall not enter into or consent to any such amendment or modification, the effect of which would be to increase the liabilities or obligations of the Lessee thereunder, without the consent of the Security Trustee.

Until the release of the security interest hereunder as contemplated by section 1.3 hereof, the right of the Owner Trustee to pursue legal remedies to compel payment or performance by the Lessee of any of the Excluded Interests shall be independent of the rights of the Security Trustee to enforce the Lease, as assignee thereof. The right to terminate the Lease and exercise remedies against the Equipment is reserved to the Security Trustee. Any such pursuit of remedies by the Owner Trustee shall be done only in a manner that shall not violate any provision of this agreement or impair the lien of this agreement on the Collateral or the rights of the Security Trustee therein.

The respective rights of the parties in respect of the Lease are set forth in Article Two hereof.

SECTION 1.2. Filing and Recordation. This agreement or a counterpart or copy hereof or other evidence hereof may be filed or recorded in any public office as may be necessary or appropriate to protect the interests of the Security Trustee and the holders of the Certificates in the Collateral. The Owner Trustee will execute and deliver for filing (i) such amendments or supplements as shall have been prepared by or for the Lessee as shall be necessary and appropriate to implement the substitution of equipment hereunder and under the Lease for units

Equipment Trust Agreement

of Equipment having suffered a Casualty Occurrence, as contemplated by section 7 of the Lease, and (ii) such other statements and instruments and such continuation statements with respect to statements and instruments previously filed relating to the interests created or assigned under this agreement in the Collateral as may be requested from time to time by the Security Trustee.

If the Owner Trustee shall move its corporate records concerning the Lease out of the jurisdiction for which the filing of financing statements in respect of any part of the Collateral is effective, or a successor trustee shall be appointed pursuant to the Trust Agreement, or the Owner Trustee shall sell, assign, or transfer any of its rights in and to the Collateral (subject to the limitations of this agreement), or the Owner Trustee shall change its name or be merged into another entity, the Owner Trustee shall prepare, execute, and file new financing statements and other appropriate instruments in the jurisdiction to which such corporate records shall be moved or shall prepare, execute, and file financing statements or other appropriate instruments naming such successor or transferee as debtor or reflecting such change in name in every public office where this agreement or evidence thereof shall have been filed or recorded, as the case may be, and shall furnish to the Security Trustee an opinion of counsel in respect of such filing of similar scope and tenor as the opinion furnished pursuant to the Participation Agreement in connection with the filing of financing statements and other instruments at the time of execution thereof.

SECTION 1.3. Release of Security Interests. After all payments due and to become due hereunder and under the Certificates shall have been made and the Owner Trustee and the Owner shall have performed all of their respective obligations hereunder (without regard for the limitations of liability specified in section 6.2 hereof) and under the Participation Agreement, if the Lessee shall not then be in default under any obligation to the Security Trustee or the holders of Certificates pursuant to the Participation Agreement and the Lease, the security interests, assignments, and all other rights in the Collateral granted by this agreement shall cease and become null and void and all of the property, rights and interests granted as security for the Certificates shall revert to and revest in the Owner Trustee without further act or formality whatsoever, and the Security Trustee shall, at the request and at the expense of the Owner Trustee, execute and deliver to the Owner Trustee such termination statements, releases or other instruments as shall be necessary and appropriate to evidence the satisfaction and discharge of this agreement and the security interests hereby created.

Equipment Trust Agreement

In case of failure of condition of settlement for any unit of Equipment under the Participation Agreement, the Security Trustee shall execute and deliver to the Lessee such releases or other instruments as shall be necessary and appropriate to give effect to section 3.3 of the Participation Agreement.

SECTION 1.4. Further Assurances. From time to time the Owner Trustee shall do all acts and execute all such instruments of further assurance as shall be reasonably requested by the Security Trustee for the purpose of fully carrying out and effectuating this agreement and the intent hereof.

ARTICLE TWO ENFORCEMENT OF LEASE

SECTION 2.1. Allocation of Lessor's Rights. Pursuant to the foregoing assignment and exclusion of certain interests set forth in section 1.1 hereof, the Owner Trustee and the Security Trustee each shall have the right,

- (a) to receive from the Lessee duplicate copies of all notices, documents, reports, and other information that the Lessee is required or permitted to give to the lessor under the Lease,
- (b) to inspect the Equipment and the Lessee's records with respect thereto, to the extent permitted by the Lease,
- (c) to provide or carry insurance in addition to that required to be carried by the Lessee pursuant to the Lease,
- (d) to protect and preserve the Equipment, to the extent the same can be accomplished without interference with the rights of the Security Trustee hereunder and the rights of the Lessee under the Lease, and
- (e) subject to the provisions of the third paragraph of section 1.1 hereof and the second paragraph of section 2.4 hereof, to consent or withhold consent to any amendment, modification, or waiver of any provision of the Lease.

So long as an Event of Default hereunder, or an event defined as an "Event of Default" in section 10 of the Lease, except such an "Event of Default" relating solely to Excluded Interests (any such event, with such exception, being herein sometimes called a Lease Event of Default) shall not have occurred and be continuing, the Owner Trustee shall have the right solely to exercise the options of the lessor (1) under sections 13 and 14 of the Lease and (2) under the last paragraph

Equipment Trust Agreement

of section 7 of the Lease (to retain units of Equipment with respect to which the Lease is being terminated) if the Owner Trustee shall have prepaid the Certificates, with premium, if any, in accordance with the provisions of section 5.1 hereof in respect of early termination of the Lease.

SECTION 2.2. Power of Attorney. The Owner Trustee hereby appoints the Security Trustee the Owner Trustee's attorney, irrevocably, with full power of substitution, to collect all payments due and to become due under or arising out of the Lease (except in respect of Excluded Interests), to enforce the terms and provisions of the Lease (except in respect of Excluded Interests, as aforesaid), and during the existence of an Event of Default to take any action or institute any proceedings that the Security Trustee may deem to be necessary or appropriate to exercise the remedies under the Lease and to protect and preserve the interest of the Security Trustee in the Collateral.

SECTION 2.3. Payments under the Lease. The parties hereto contemplate that, pursuant to Section 3 of the Lease, the Lessee shall make all payments to be made by it under the Lease (except in respect of Excluded Interests) directly to the Security Trustee or in accordance with the Security Trustee's instructions until the release of the security interest hereunder as contemplated by section 1.3 hereof. The Owner Trustee agrees that should it receive any such payments or any proceeds for or with respect to the Collateral or as the result of the sale or other disposition thereof, it shall promptly forward such payments to the Security Trustee or in accordance with the Security Trustee's instructions.

The Security Trustee shall apply amounts from time to time received by it (from the Lessee, the Owner Trustee, or otherwise) with respect to the Lease or the Equipment to the payment of the principal of, premium, if any, and interest on the Certificates then due and to the payment of any other amounts then due and payable under this agreement, the Lease, and the Participation Agreement and, if no Event of Default hereunder, Lease Event of Default, or event that with the passage of time or the giving of notice would become an Event of Default or Lease Event of Default shall have occurred and be continuing, to pay promptly any balance to the Owner Trustee.

If at the time of receipt by the Security Trustee of any payment under the Lease there shall have occurred and be continuing any Event of Default hereunder, Lease Event of Default, or event that with the passage of time or the giving of notice would become an Event of Default or Lease Event of Default, the Security Trustee shall retain such balance (except any portion of such balance as shall be in respect of Excluded

Equipment Trust Agreement

Interests) pending application pursuant to section 7.4 hereof upon declaration that the principal amount of the Certificates is immediately due and payable, or if not so applied, until such time as such Event of Default, Lease Event of Default, or event shall have been cured or shall not be continuing, or unless such balance shall have been retained for more than 180 days and the Security Trustee shall not have declared the unpaid balance of the Certificates then due and payable as contemplated by section 7.1 hereof; then and in any such case the Security Trustee shall pay such balance to the Owner Trustee or its order, but otherwise shall apply such balance in accordance with section 7.4. During the period such balance shall be held by the Security Trustee, the Security Trustee shall invest the same in "Permitted Investments," as defined in section 7 of the Lease, at and for the direction, expense, risk, and benefit of the Owner Trustee.

Notwithstanding any provision of this agreement (including sections 2.5 and 7.4), the Security Trustee shall promptly pay any amounts received or held in respect of Excluded Interests to the Owner Trustee or its order.

SECTION 2.4. Enforcement After Default. If any Lease Event of Default shall have occurred and shall be continuing, then and in every such case the Security Trustee may, and upon receipt of a request of the registered holders of 25% of the principal amount of the then outstanding Certificates shall, subject to section 7.2 hereof, exercise the rights and remedies available to it upon such default as assignee of the Owner Trustee hereunder of the Owner Trustee's rights as lessor under the Lease. Any termination of the Lease shall be rescinded by the Security Trustee upon request of the holders of a majority of the principal amount of the then outstanding Certificates. The Owner Trustee shall do all acts and execute all such powers of attorney and instruments of further assurance as shall be requested by the Security Trustee for the purpose of the exercise of such rights, whether by the Security Trustee in its own name as assignee of the Owner Trustee or in the name of the Owner Trustee as its attorney-in-fact.

If a Lease Event of Default shall have occurred and shall be continuing, the Security Trustee shall have the right, to the exclusion of the Owner Trustee, to enter into any agreement or consent to or acquiesce in any court order modifying the obligations of the Lessee under the Lease with respect to that portion of the rent intended to satisfy the obligations of the Owner Trustee on the Certificates, and the time of payment thereof, if and so long as the final maturity of the Certificates shall not be extended.

SECTION 2.5. Application of Proceeds. If a Lease Event of

Equipment Trust Agreement

Default shall occur, all payments made by the Lessee to the Security Trustee hereunder after such Lease Event of Default, and the proceeds of any judgment collected hereunder from the Lessee by the Security Trustee, and the proceeds of every sale or other disposition by the Security Trustee of any of the Equipment, together with any other sums that may then be held by the Security Trustee under any of the provisions hereof, shall be applied by the Security Trustee as provided in section 7.4 hereof.

SECTION 2.6. Right to Cure Defaults. If the Lessee shall fail to make any payment of rent or other amount under the Lease or the Participation Agreement when the same shall have become due, or the Lessee shall have failed to perform any other obligation under the Lease or the Participation Agreement, and, in the case of any such failure to pay the rent referred to in the first paragraph of Section 3 of the Lease, such failure shall not constitute the third consecutive or fifth cumulative such failure, the Security Trustee, as and when it shall have knowledge of such failure, shall promptly notify the Owner Trustee thereof. The Owner Trustee may (but need not) (a) in the case of such failure to pay the rent referred to in the first paragraph of Section 3 of the Lease or any failure to maintain policies of insurance required by Section 7 of the Lease, within five days of such failure becoming a Lease Event of Default, pay to the Security Trustee the portion of any such payment of rent that was to have been applied to the principal and interest on the Certificates, together with interest due thereon on account of any delay in such payment, or restore such insurance, or (b) in the case of any other failure of payment or performance (that is capable of being cured), within ten days of such failure becoming a Lease Event of Default, pay or perform such amount or obligation; and such payment or performance shall be deemed to cure any Event of Default that arose or would have arisen from such failure by the Lessee, but shall not relieve the Lessee of its obligations in respect thereof. The right of the Owner Trustee to cure any failure of the Lessee to perform its obligations under the Lease (other than the obligation to pay rent) shall be limited to payments and expenditures so to cure of \$2,500,000 in the aggregate during the period that Certificates shall be outstanding hereunder.

Upon such payment or performance, and so long as no Event of Default hereunder shall have occurred and be continuing, the Owner Trustee shall be subrogated to the rights of the Security Trustee, as assignee of the Owner Trustee hereunder, in respect thereof, and shall be entitled to receive such payment of rent or other amount or be reimbursed for the cost of such performance (together with any interest on account of such payments being overdue) from the Lessee, whether or not received by the Security

Equipment Trust Agreement

Trustee. The right of the Owner Trustee to receive such amounts shall be treated as an Excluded Interest hereunder.

ARTICLE THREE ISSUE, EXECUTION, AUTHENTICATION, AND FORM OF CERTIFICATES

SECTION 3.1. Maximum Authorized Issue. There are authorized to be issued and outstanding at any time hereunder Certificates in an aggregate principal amount not to exceed the maximum authorized issue amount set forth in the form of Certificate in Annex A hereto.

SECTION 3.2. Issuance of Certificates; Proceeds. The Owner Trustee shall issue and deliver, from time to time in accordance with the Participation Agreement and subject to the conditions thereof, Certificates substantially in the form set forth in Annex A hereto in the aggregate principal amount sold under and pursuant to the terms of the Participation Agreement. The proceeds of such sale shall forthwith be deposited with the Security Trustee, to be held in trust for the benefit of the holders of the Certificates and disbursed in accordance with the provisions hereof.

In accordance with the terms of the Participation Agreement and subject to the conditions set forth therein, the Security Trustee, on the date or dates specified in the Participation Agreement, shall pay to the vendor or vendors of the Equipment an amount equal to that portion of the cost of the Equipment as shall be specified in the Participation Agreement to be paid out of the proceeds of the issuance of the Certificates on such date.

SECTION 3.3. Characteristics of Certificates. Certificates shall bear interest at such rate, be payable as to principal, premium, if any, and interest on such date or dates, and shall contain such other terms and provisions as shall be set forth in the form set forth in Annex A hereto.

The principal of the Certificates shall be payable in instalments, on the dates set forth in the Certificates. The instalments of principal payable on each payment date shall be calculated by multiplying the original principal amount of each Certificate by the percentage set forth for such date in Schedule B hereto.

The Owner Trustee shall not have the privilege of prepaying the Certificates, except as set forth in Article Five.

The unpaid principal amount of each Certificate shall bear interest at the rate set forth for such Certificate in the form thereof, and such interest shall be payable on the dates set

Equipment Trust Agreement

forth therefor in the Certificates. Interest payable for the period from the date of issue of each Certificate to the first date for the payment of interest shall be calculated on the basis of a 365-day year and actual days elapsed; interest payable thereafter shall be calculated on the basis of a 360-day year of twelve 30-day months. Any amounts due under the Certificates not paid when due shall bear interest for the period for which the same shall be overdue at the rate per annum set forth in the form of Certificate in Annex A hereto for overdue payments (hereinafter called the **Overdue Rate**).

If any date for payment of principal of or interest on any Certificate is not a business day (as such term is used in Section 3 of the Lease), then such payment shall be made on the next preceding business day with the same effect as if made on the nominal payment date.

The Certificates (i) shall be registered, as to both principal and interest, in the names of the holders; (ii) shall be registrable as to transfer in whole or in part upon presentation and surrender thereof for registration of transfer at the office of the Security Trustee; (iii) shall be dated as of the date of issue, or if issued in exchange for or upon the transfer of another Certificate or Certificates bearing unpaid interest from an earlier date, dated as of such earlier date; (iv) shall entitle the holders to interest and instalments of principal from the date thereof; and (v) shall be exchangeable at the office of the Security Trustee for an equal aggregate principal amount of Certificates of like tenor.

All Certificates shall rank on a parity with each other Certificate and shall as to each other be secured equally and ratably by this agreement, without preference, priority or distinction of any thereof over any other by reason of difference in time of issuance or otherwise.

SECTION 3.4. Home Office Payment. The principal of, premium, if any, and interest on each Certificate shall be payable at the office of the Security Trustee in immediately available funds in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

Notwithstanding the foregoing or any provision in any Certificate to the contrary, if so requested by the registered holder of any Certificate by written notice to the Security Trustee, all amounts (other than the final payment) payable to such holder may be paid either, in accordance with such request, (i) by crediting the amount to be distributed to such holder to an account maintained by such holder with the Security Trustee or

Equipment Trust Agreement

by transferring such amount by wire to such other bank in the United States, including a Federal Reserve Bank, as shall have been specified in such notice, for credit to the account of such holder maintained at such bank, promptly and in any event not later than 3:00 p.m. on the day received (if and to the extent that payment shall have been received by the Security Trustee from the Lessee at the time specified for such payment in the Lease), or (ii) by mailing a check payable in clearing house funds local to the city where the office of the Security Trustee is situated to such holder at such address as such holder shall have specified in such notice, in either case without any presentment or surrender of such Certificate. In the case of any such holder that is an original party to the Participation Agreement, the Participation Agreement shall constitute such written notice. Final payment of any such Certificate shall be made only against surrender of such Certificate to the Security Trustee.

SECTION 3.5. Authentication. Only such Certificates as shall bear thereon a certificate of authentication manually executed by the Security Trustee shall be entitled to the benefits of this agreement or be valid or obligatory for any purpose. Such certificate of authentication of the Security Trustee upon any Certificate executed by or on behalf of the Owner Trustee shall be conclusive evidence that the Certificate so authenticated was duly issued, authenticated and delivered under this agreement.

SECTION 3.6. Execution of Certificates. The Certificates shall be executed on behalf of the Owner Trustee by one of its officers duly authorized to execute such instruments. Such signature may be a manual or facsimile signature and may be printed or otherwise reproduced on the Certificates. In case any such officer of the Owner Trustee, who shall have executed any of the Certificates either manually or by facsimile signature, shall cease to be such an officer before the Certificates so executed shall have been authenticated by the Security Trustee and delivered or disposed of by the Security Trustee, such Certificates nevertheless may be authenticated and delivered or disposed of as though the person who executed such Certificates had not ceased to be such an officer of the Owner Trustee.

SECTION 3.7. Limitation on Source of Payments. All payments to be made by the Security Trustee under this agreement on the Certificates shall be made only out of amounts received by the Security Trustee hereunder and applicable to such payment under the provisions hereof. Each holder of a Certificate, by its acceptance of such Certificate, agrees that it will look solely to such amounts to the extent available for distribution to such holder as herein provided and that the Security Trustee shall not

Equipment Trust Agreement

be personally liable to such holder of a Certificate for any amounts payable under this agreement or under such Certificate or, except as provided in Article Eight hereof, for any liability under this agreement.

SECTION 3.8. Deposit of Withholding Taxes. To the extent required by law, the Security Trustee shall withhold from each payment to be made on any Certificate United States withholding taxes at the appropriate rate and shall deposit the same with an authorized depository and make appropriate reports and filings in connection therewith. Each holder of Certificates, by its acceptance thereof, agrees to indemnify and hold harmless the Security Trustee and the Owner Trustee against any loss due to failure of the Security Trustee to withhold and deposit such withholding taxes as a result of the failure of such holder to provide to the Security Trustee, on its request, the proper certificates, forms, or reports with respect to exemption from such withholding tax.

ARTICLE FOUR REGISTRATION, TRANSFER, EXCHANGE, CANCELLATION AND OWNERSHIP OF CERTIFICATES

SECTION 4.1. Register of Certificates. The Security Trustee shall maintain a register for the purpose of registration, and registration of transfer and exchange, of Certificates and in which shall be entered the names and addresses of the holders of such Certificates and particulars of the Certificates owned by them. For these purposes, the Security Trustee is hereby appointed transfer agent and registrar for the Certificates.

SECTION 4.2. Inspection of Register of Certificates. The register referred to in section 4.1 of the holders of the Certificates shall be open at all reasonable times for inspection by the Owner Trustee and any registered holder of a Certificate. Upon request by the Owner Trustee or any registered holder of a Certificate, the Security Trustee shall furnish the Owner Trustee or such holder, at the expense of the Owner Trustee or such holder (as the case may be), with a list of the names and addresses of all registered holders of Certificates entered on the register kept by the Security Trustee, indicating the unpaid principal amount and serial number of each Certificate held by such registered holders.

SECTION 4.3. Cancellation of Certificates. All Certificates surrendered to the Security Trustee for payment, prepayment, or registration of transfer or exchange shall be cancelled by it upon such payment, prepayment, or registration; and no Certificates shall be issued in lieu thereof except as expressly

Equipment Trust Agreement

permitted by any of the provisions of this agreement. The Security Trustee may destroy cancelled Certificates held by it and deliver a certificate of destruction to the Owner Trustee, or the Security Trustee may return cancelled Certificates to the Owner Trustee. If the Owner Trustee shall acquire any of the Certificates, such acquisition shall not operate as a redemption of or the satisfaction of the indebtedness represented by such Certificates unless and until the same shall be delivered to the Security Trustee for cancellation.

SECTION 4.4. Exchange or Transfer of Certificates. A registered holder of a Certificate transferring any Certificate registered in its name or intending to exchange any of such Certificates for new Certificates may surrender such Certificates at the office of the Security Trustee, together with the written request of such holder, or of its attorney duly authorized in writing, for the issuance of a new Certificate or Certificates, specifying the authorized denomination or denominations of the same and the name and address of the transferee. Promptly upon receipt by the Security Trustee of the foregoing and satisfaction of the requirements of this section, the Owner Trustee shall execute, and the Security Trustee shall authenticate and deliver, such new Certificate or Certificates, in principal amount equal to the original principal amount or amounts of such Certificate or Certificates so surrendered (with appropriate notation as to amounts theretofore paid), having the same terms as the Certificates so surrendered, in such denomination or denominations and registered in the name or names of the transferee specified in the written request. Certificates shall not be issued in any denomination less than \$150,000.

The Security Trustee shall not be required to register transfers or exchanges of Certificates on any date fixed for the payment of principal or premium, if any, or interest on the Certificates or during the five business days preceding such date.

The Certificates shall be delivered to registered holders without registration of such Certificates under the Securities Act of 1933, as amended, and qualification of this agreement under the Trust Indenture Act of 1939, as amended.

Any transferee of Certificates, by its acceptance thereof, shall be bound by the terms and conditions hereof and of the Participation Agreement, and shall be deemed to have made the representations made by the original holder thereof in the Participation Agreement.

As a condition of transfer or exchange of any Certificate, the holder thereof shall reimburse the Security Trustee and the

Equipment Trust Agreement

Owner Trustee for any stamp taxes or governmental charges required to be paid with respect to such transfer or exchange.

SECTION 4.5. Destroyed, Mutilated, Lost or Stolen Certificates. If any Certificate shall be destroyed, mutilated, lost, or stolen, the Security Trustee shall, upon the written request of the registered holder of such Certificate, execute, authenticate and deliver in replacement thereof, a new Certificate, payable in the same original principal amount and dated the same date as the Certificate so destroyed, mutilated, lost, or stolen. The Security Trustee shall make a notation on each new Certificate of the amount of all payments of principal and premium, if any, theretofore made, or the date to which such payments have been made, on the Certificate so destroyed, mutilated, lost or stolen and the date to which interest on such old Certificate has been paid. If the Certificate being replaced has been mutilated, such Certificate shall be delivered to the Security Trustee and shall be cancelled by it. If the Certificate being replaced has been destroyed, lost or stolen, the holder of such Certificate shall furnish to the Security Trustee and the Owner Trustee a written statement or other evidence satisfactory to the Security Trustee and the Owner Trustee of the destruction, loss or theft of such Certificate and of the ownership thereof and an indemnity agreement of such holder as shall be satisfactory to the Security Trustee and the Owner Trustee to save them harmless from any loss, however remote, arising out of such loss or destruction and consequent replacement.

SECTION 4.6. Ownership of Certificates. Prior to due presentment for registration of transfer, the Security Trustee and the Owner Trustee may deem and treat the registered holder of any Certificate as the absolute owner of such Certificate for the purpose of receiving payment of all amounts payable with respect to such Certificate and for all other purposes, and neither the Owner Trustee nor the Security Trustee shall be affected by any notice to the contrary.

The Security Trustee and the Owner Trustee may, at their discretion, respectively, treat the registered holder of any Certificate as the owner thereof without actual production of such Certificate for any purpose hereunder except redemption or prepayment in full.

The Security Trustee shall not be bound to take notice of or carry out the execution of any trust in respect of any Certificate, and may transfer the same on the direction of the holder thereof, whether named as trustee or otherwise, as though the holder were the beneficial owner thereof.

The registered holder of any Certificate shall be entitled

Equipment Trust Agreement

to the principal of, premium, if any, and interest on such Certificate free from all equities or rights of set-off or counterclaims of the Owner Trustee, the Security Trustee or any other party against any prior registered holder of such Certificate. The receipt by the registered holder of any Certificate of any payment of principal, premium or interest shall be a good discharge to the Owner Trustee and the Security Trustee for the same and neither the Owner Trustee nor the Security Trustee shall be bound to inquire into the title of any registered holder.

ARTICLE FIVE PREPAYMENT

SECTION 5.1. Partial Prepayment as Result of Casualty Occurrence or Early Termination. If any unit of the Equipment shall suffer a **Casualty Occurrence** (as defined in section 7 of the Lease) and shall not be replaced as therein specified, or the Lease shall be terminated by the Lessee in accordance with the provisions of section 7 thereof in respect of any unit of Equipment, the Certificates shall be prepaid, on the date set forth in the Lease for payment by the Lessee in respect of such Casualty Occurrence or early termination, in an amount equal to the unpaid principal amount of the Certificates multiplied by a fraction, the numerator of which shall be the aggregate amount of the **Purchase Price** (as such term is defined in the Participation Agreement) of the Equipment as to which the Lease is being terminated or which shall have suffered a Casualty Occurrence and the denominator of which shall be the aggregate amount of such Purchase Price of all Equipment immediately prior to such date, together with interest accrued and unpaid on the amount so prepaid.

If any prepayment of Certificates shall be due to the voluntary termination of the Lease by the Lessee in accordance with the last paragraph of Section 7 of the Lease in respect of any unit of Equipment, then as a premium for such prepayment occurring before January 8, 2003, the Owner Trustee shall pay, on the date such prepayment is due, an amount equal to the excess, if any, of (i) the present value, as of the date of such prepayment, of the remaining scheduled instalments of the principal amount then being prepaid and scheduled payments of interest thereon (taking into account the reduction of scheduled interest payments due to the payment of accrued interest at the time of such prepayment), determined by discounting at a rate equal to the then prevailing yield to maturity of obligations of the United States Treasury having a constant maturity most closely matching the then remaining average life to maturity of the Certificates, over (ii) the principal amount of such

Equipment Trust Agreement

prepayment. Such yield to maturity shall be determined by reference to official publications of agencies or branches of the United States government most recently available as of five business days prior to such payment, and with such interpolation as shall be necessary.

Partial prepayment shall be allocated as set forth in section 5.4 hereof.

SECTION 5.2. Mandatory Prepayment upon Termination of the Lease. If the Lease shall be terminated, either by declaration of the Security Trustee or otherwise upon occurrence of any Lease Event of Default, the entire unpaid principal amount of the Certificates and all other amounts due hereunder shall be immediately due and payable, unless the Lessee shall be a debtor in a case under Chapter 11 of the United States Bankruptcy Code, and the Lessee (or its trustee in bankruptcy), with the consent of the court having jurisdiction over Lessee's bankrupt estate, shall have agreed to perform or shall have assumed its obligations under the Lease and cured all prior defaults thereunder, or such termination shall have been stayed by operation of law pending such agreement to perform or assumption.

SECTION 5.3. Optional Prepayment after Default under the Lease. If a Lease Event of Default shall have occurred and be continuing, and either

- (a) the Lessee shall not be a debtor in a case under Chapter 11 of the United States Bankruptcy Code, and the Security Trustee shall not have exercised any remedies under the Lease for a period of 180 days after the occurrence of such Lease Event of Default; or
- (b)
 - (i) the Lessee shall be a debtor in a case under Chapter 11 of the United States Bankruptcy Code,
 - (ii) the Lessee (or its trustee in bankruptcy), shall not have agreed to perform or shall not have assumed its obligations under the Lease with the consent or approval of the court having jurisdiction over Lessee's bankrupt estate, and exercise of remedies under the Lease shall not be stayed by operation of law pending such agreement to perform or assumption, and
 - (iii) the Security Trustee shall not have exercised any remedies under the Lease for a period of 180 days after the expiration of any such stay;

the Owner Trustee or the Owner, on ten days' notice to the Security Trustee, may prepay or purchase all but not less than

Equipment Trust Agreement

all of the unpaid amount of the Certificates, by paying to the Security Trustee (in the case of prepayment) the total unpaid principal amount of all the Certificates then outstanding, together with interest thereon accrued and unpaid and all other amounts due under this agreement, within 30 days after the expiration of such 180-day period, and each holder of Certificates, by its acceptance thereof, agrees to sell such Certificates under such circumstances.

The Owner Trustee shall also be entitled to the right of redemption afforded by section 7.5 hereof.

SECTION 5.4. Allocation of Partial Prepayment. Any amounts of prepayment of Certificates, together with interest and premium, if any, payable by reason of the application of the prepayment of principal of such Certificates, shall be distributed to the registered holders of such Certificates outstanding on the date of such prepayment in proportion to the unpaid principal amount of Certificates held by each of them, without priority of one over the other.

In case of partial prepayment of Certificates pursuant to section 5.1 hereof, the amount of each payment of such Certificate so prepaid becoming due after application of such prepayment shall, to the extent appropriate, be adjusted so that the principal paid on each date for an instalment of principal shall bear the same proportion to the original amount payable on such date as the total unpaid balance bears to the original balance unpaid on such date but for such prepayment and that, upon the due payment of all payments thereafter, the entire unpaid principal amount of and interest on such Certificate shall have been paid in full.

ARTICLE SIX COVENANTS; LIMITATION OF LIABILITY

SECTION 6.1. Covenants of Owner Trustee. The Owner Trustee hereby covenants and agrees that, until release of the security interest hereunder as contemplated by section 1.3 hereof:

(a) subject to the provisions of sections 6.2 and 9.8 hereof, the Owner Trustee shall duly and punctually pay to the Security Trustee

(i) such amounts as are necessary to enable the Security Trustee to pay the principal of, premium, if any, and interest on the Certificates in accordance with the terms of such Certificates and this agreement when such payments shall become due, including, but not

Equipment Trust Agreement

limited to, prepayments required by Article Five hereof;

(ii) on demand, the charges, costs, and expenses of the Security Trustee and the holders of Certificates made or incurred in enforcement of the Lease or the obligations of the Lessee in the Participation Agreement or arising out of a Lease Event of Default, to the extent the Lessee is obliged to pay the same pursuant to the Lease; and

(iii) on demand, the actual damages suffered by the Security Trustee and the holders of the Certificates arising out of the breach by the Lessee of its obligations under the Lease or the Participation Agreement or the occurrence of a Lease Event of Default (except the failure to make periodic payments of rent), or arising out of the inaccuracy of any representation made by the Lessee therein or in connection therewith, to the extent the Lessee is obliged to pay the same pursuant to the Lease;

(b) the Owner Trustee shall not directly or indirectly create or suffer to exist any lien, charge, security interest, or other encumbrance on or with respect to any of the Collateral, except any such lien, charge, security interest, or encumbrance required to be discharged by the Lessee pursuant to Section 12 of the Lease;

(c) the Owner Trustee shall faithfully abide by each and every agreement of the lessor under the Lease; without the written consent of the Security Trustee (and except in respect of Excluded Interests), the Owner Trustee shall not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee that are intended to satisfy the obligations of the Owner Trustee under this agreement or to preserve and protect the interest of the Security Trustee in the Lease and the Equipment, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein, or enter into any agreement or take any action the result of which would be to amend, modify or terminate the Lease or the obligations of the Lessee thereunder;

(d) the Owner Trustee shall promptly pay to the Security Trustee the actual damages arising out of the breach by the Owner Trustee of its obligations hereunder (except the obligations specified in clause (a) of this section 6) or

Equipment Trust Agreement

arising out of the breach by the Owner Trustee or the Owner of any of their respective obligations under the Participation Agreement, or arising out of the inaccuracy of any representation made by either of them therein or in connection therewith, together with the charges, costs, and expenses of the Security Trustee made or incurred in enforcement of this agreement or arising out of an Event of Default; and

(e) the Owner Trustee shall promptly notify the Security Trustee of any Event of Default, Lease Event of Default, or event that, with the passage of time or the giving of notice would become an Event of Default or Lease Event of Default, of which the Owner Trustee shall have knowledge.

SECTION 6.2. Limitation of Liability. The liability of the Owner Trustee for all payments to be made hereunder and under and pursuant to the Certificates shall be payable only out of the income and proceeds from the Collateral. As used herein the term "income and proceeds from the Collateral" shall mean

(a) if an Event of Default shall have occurred and while it shall be continuing, (i) except amounts in respect of Excluded Interests, all rent and any other sums due, overdue, and to become due under the Lease after the occurrence of the event resulting in such Event of Default, and (ii) any and all other payments or proceeds received pursuant to the Lease or the enforcement thereof or for or with respect to the Collateral as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition; and

(b) at any other time, only that portion of the amounts referred to in the foregoing clause (a) as shall equal the payments specified in clause (a) of section 6.1 due and payable by the Owner Trustee on the dates corresponding amounts were required to be paid pursuant to the Lease, including payments in respect of Casualty Occurrences and early termination of the Lease.

The Security Trustee agrees that if it obtains a judgment against the Owner Trustee for an amount in excess of the amounts payable by the Owner Trustee pursuant to the limitations set forth in this section, it will, accordingly, limit its execution of such judgment to such amount and it will not bring suit against the Owner Trustee for any sums in addition to the amounts payable by the Owner Trustee pursuant to said limitations (or obtain a judgment, order, or decree against the Owner Trustee for any relief other than the payment of money) except as may be

Equipment Trust Agreement

required by applicable rules of procedure to enforce against the Collateral and the Lessee (rather than against the Owner Trustee personally), by appropriate proceedings against the Owner Trustee at law or in equity or otherwise, the obligations to make the payments to be made pursuant to the Certificates and clause (a) of section 6.1 or any other payment or performance obligations due the Security Trustee under this agreement.

If (a) the trust estate created by the Trust Agreement becomes a debtor subject to the reorganization provisions of the United States Bankruptcy Code or other insolvency laws as now or hereafter in effect, (b) pursuant to such reorganization provisions the Owner or the Owner Trustee is required, by reason of the Owner or the Owner Trustee being held to have recourse liability to the Security Trustee or the holders of Certificates to pay directly or indirectly any amount payable as principal, interest, or premium on the Certificates, and (c) the Security Trustee or any holder of Certificates actually receives any Excess Amount (as hereinafter defined) which reflects any payment by the Owner or the Owner Trustee on account of clause (b) above, then the Security Trustee or such holder, as the case may be, shall promptly refund to the Owner or the Owner Trustee, as the case may be, such Excess Amount. "Excess Amount" means the amount by which such payment exceeds the amount that would have been received by the Security Trustee or such holder if the Owner or the Owner Trustee had not become subject to the recourse liability referred to in clause (b) of the preceding sentence.

Nothing contained herein limiting the liability of the Owner Trustee shall derogate from the right of the Security Trustee (a) to proceed against the Collateral or the Lessee as provided for herein or in the Lease for the full unpaid principal amount of the Certificates and interest thereon and other losses and damages under the Lease, or (b) to proceed against the Owner Trustee or the Owner for damages and other remedies for the breach of its respective covenants in the Participation Agreement or the inaccuracy of the representations and warranties contained in the Participation Agreement or in certificates delivered in connection with Sections Three and Four thereof.

ARTICLE SEVEN EVENTS OF DEFAULT; REMEDIES

SECTION 7.1. Events of Default. If any of the following events (each such event being herein sometimes called an **Event of Default**) shall have occurred (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary):

(a) a Lease Event of Default shall have occurred and shall

Equipment Trust Agreement

be continuing; or

(b) other than arising out of a Lease Event of Default, (i) any payment of interest or regular and periodic instalment of principal on the Certificates shall not be paid when due, and such default shall continue for more than five days thereafter, or (ii) any other payment due hereunder or on the Certificates, including without limitation prepayments and premium, if any, required by Article Five hereof, shall not be paid when due, and such default shall continue for more than ten days thereafter; or

(c) the Owner Trustee or the Owner shall breach or fail to observe or perform any other obligation or agreement on its respective part made in this agreement or the Participation Agreement (other than sections 4.7, 4.10, 4.12, and 5.2 thereof), and such breach or failure shall continue for a period of 30 days after the Owner Trustee shall have knowledge thereof or notice thereof shall have been given to the Owner Trustee and the Owner by the Security Trustee, or to the Owner Trustee, the Owner, and the Security Trustee by any holder of Certificates, specifying such failure and requiring it to be remedied; or

(d) any representation or warranty made or given by the Owner Trustee or the Owner herein, in the Participation Agreement, or in any document, certificate or instrument furnished in connection therewith shall prove to be inaccurate in any material respect when made or given, shall remain material when discovered, and the Owner Trustee or the Owner, as the case may be, within 30 days of such discovery, shall not remedy the situation so that such representation or warranty shall be accurate as originally made and such inaccuracy shall not have materially and adversely affected the Security Trustee or the holders of Certificates or shall otherwise be satisfactory to the Security Trustee; or

(e) the Owner Trustee shall sell or otherwise transfer the Collateral contrary to the terms hereof and section 4.11 of the Participation Agreement; or the Owner Trustee or the Owner shall create or suffer to exist any lien, charge, security interest, or encumbrance on or against the Collateral or any part thereof that is prohibited by clause (b) of section 6.1 hereof and that is prior to or on a parity with the interest of the Security Trustee granted or assigned hereunder, and such lien, charge, security interest, or encumbrance shall not be promptly discharged; or

Equipment Trust Agreement

(f) the Owner Trustee (to the extent only that the Trust Estate held by the Owner Trustee under the Trust Agreement may be affected), such Trust Estate or the Owner shall (1) (in the case of the Owner or the Owner Trustee) be generally not paying its debts as they become due, unless such debts are the subject of a bona fide dispute (all within the meaning of section 303 of the United States Bankruptcy Code), (2) file, or consent to the filing against it of a petition for relief under any bankruptcy or insolvency laws, (3) make a general assignment for the benefit of creditors, (4) consent to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, or other official with similar powers over the Owner Trustee, such Trust Estate, or the Owner or a substantial part of the property of any of them, or (5) take corporate action for the purpose of any of the foregoing; or

(g) the Owner Trustee (to the extent only that such Trust Estate may be affected), such Trust Estate, or the Owner or the property of any of them shall be the subject of a petition in an involuntary case under any bankruptcy or insolvency law, or for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, or other official with similar powers over the Owner Trustee, such Trust Estate, the Owner, or a substantial part of such property, and such petition shall remain undismissed for a period of 60 consecutive days or an order granting such petition or similar relief shall be granted by any court having jurisdiction over the Owner Trustee, such Trust Estate, the Owner, or such property, as the case may be, in either case other than at the instance of the Security Trustee or any holder of Certificates based solely on the transactions contemplated hereby;

then and in every such case (but subject to the limitations of section 7.2 hereof) the Security Trustee may, and upon receipt of a request of the registered holders of 25% of the principal amount of the then outstanding Certificates shall, by notice in writing to the Owner Trustee, declare the unpaid principal amount of the Certificates with accrued interest thereon to be due and payable. Thereupon the entire amount of such principal and accrued interest shall become due and payable immediately without further demand, together with premium, if any, and interest at the Overdue Rate, to the extent legally enforceable, on any portion thereof overdue and all other amounts due hereunder, unless such declaration shall be rescinded by the Security Trustee upon request of the holders of a majority of the principal amount of the then outstanding Certificates.

The Security Trustee, in its own name and as trustee of an

Equipment Trust Agreement

express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the amounts due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Owner Trustee and collect in the manner provided by law out of the Collateral, wherever situated, the moneys adjudged or decreed to be payable (subject to the provisions of sections 6.2 and 9.8 hereof).

SECTION 7.2. Limitations on Exercise of Remedies. The remedies available to the Security Trustee upon occurrence of an Event of Default are subject to the following limitations:

(a) if such Event of Default hereunder shall be due to a Lease Event of Default and the Lessee shall not be a debtor in a case under Chapter 11 of the United States Bankruptcy Code, the Security Trustee shall not exercise any remedy hereunder unless it shall simultaneously be exercising one or more remedies under the Lease, unless the Security Trustee shall be stayed or otherwise prevented from exercising such remedies by operation of law or otherwise;

(b) if such Event of Default hereunder shall be due to a Lease Event of Default and the Lessee shall be a debtor in a case under Chapter 11 of the United States Bankruptcy Code, the Security Trustee shall not exercise any remedy hereunder if the Lessee (or its trustee in bankruptcy), with the consent of the court having jurisdiction over Lessee's bankrupt estate, shall have agreed to perform or shall have assumed its obligations under the Lease and cured all prior defaults required to be cured under section 1168 of said Bankruptcy Code, or the exercise of remedies under the Lease shall have been stayed by operation of law pending such agreement to perform or assumption for a period not exceeding 60 days or such period for which such 60-day period shall have been extended pursuant to said section 1168;

(c) if an Event of Default shall be subject to cure pursuant to section 2.6 hereof, the Security Trustee shall not exercise any remedy available hereunder with respect to such Event of Default during the period specified in said section for the exercise of such cure, or if such cure shall be effected; and

(d) if the Security Trustee shall have agreed or consented to or acquiesced in any court order modifying the obligations of the Lessee under the Lease pursuant to the second paragraph of section 2.4 hereof or otherwise, the obligations of the Owner Trustee hereunder and under the

Equipment Trust Agreement

Certificates shall be modified accordingly, and no remedy shall be available hereunder in respect of such modification.

SECTION 7.3. Specific Remedies. Upon the occurrence and during the continuance of an Event of Default (but subject to the limitations of the preceding section) the Security Trustee may exercise any or all of the following remedies:

(a) Subject to the rights of the Lessee under the Lease (if a Lease Event of Default shall not have occurred and be continuing), the Security Trustee may assert and assume possession of the Collateral, and may collect and receive any and all rents, revenues, and other cash and non-cash proceeds from the Collateral. If a Lease Event of Default shall have occurred and be continuing, the Security Trustee, in enforcement of its rights under Article Two hereof, shall have the right to have the Equipment assembled and delivered to the location specified by the Security Trustee. The Security Trustee shall be entitled to a judgment conferring upon the Security Trustee the immediate right to such possession and to a decree of specific performance requiring the delivery of the Equipment as aforesaid.

(b) The Security Trustee may with or without retaking possession sell all or any part of the Collateral, free from any and all claims of the Owner Trustee, in one lot and as an entirety or in separate lots, at public or private sale, for cash or upon credit, in its discretion. Upon any such public sale, the Security Trustee itself or any holder of Certificates may bid for the property offered for sale or any part thereof. Any such sale may be held or conducted at such place and at such time as the Security Trustee may specify, or as may be required by law, and without gathering at the place of sale the Equipment or the Collateral to be sold, and in general in such commercially reasonable manner as the Security Trustee may determine.

Such taking of possession of the Collateral or any of it by the Security Trustee pursuant to clause (a) of the first paragraph of this section shall not be a bar to the recovery by the Security Trustee from the Owner Trustee of amounts due to the Security Trustee arising out of an Event of Default hereunder, subject, however, to the provisions of sections 6.2 and 9.8 hereof.

Sale of the Collateral or any of it by the Security Trustee pursuant to clause (b) of the first paragraph of this section

Equipment Trust Agreement

shall not be a bar to the recovery by the Security Trustee from the Owner Trustee of payments then or thereafter due and payable, and the Owner Trustee (subject to the provisions of sections 6.2 and 9.8 hereof) shall be and remain liable for the same until such sums shall have been received by the Security Trustee.

SECTION 7.4. Application of Proceeds. All payments made by the Owner Trustee or the Lessee to the Security Trustee hereunder after an Event of Default, and the proceeds of any judgment collected hereunder from the Owner Trustee or the Lessee by the Security Trustee, and the proceeds of every sale or other disposition by the Security Trustee of any of the Collateral, together with any other sums that may then be held by the Security Trustee under any of the provisions hereof, shall be applied by the Security Trustee to the payment in the following order of priority:

(a) of all charges, expenses, or advances made or incurred by the Security Trustee in discharge of its duties hereunder and in enforcement of the obligations of the Owner Trustee hereunder or under the Participation Agreement or of the Owner under the Participation Agreement or of the Lessee under the Lease or the Participation Agreement or arising out of an Event of Default, including amounts in respect thereof advanced to the Security Trustee by any holder of Certificates;

(b) of the actual damages suffered by the Security Trustee or the holders of Certificates arising out of the breach by the Lessee of its obligations under the Lease or the occurrence of a Lease Event of Default (except the failure to make periodic payments of rent) or arising out of breach by the Owner Trustee of its obligations hereunder (except principal, interest, and premium, if any, on the Certificates) or arising out of the breach by the Lessee, the Owner Trustee or the Owner of any of their respective obligations under the Participation Agreement, or arising out of the inaccuracy of any representation made by any of them therein or in connection therewith;

(c) of the interest then due, with interest on overdue interest at the Overdue Rate, to the extent legally enforceable, and

(d) of the principal of and premium, if any, on all the outstanding Certificates, together with all other amounts due hereunder, under the Certificates, or under the Participation Agreement (and not contemplated by the preceding clauses (a) through (c)), with interest thereon (other than the interest contemplated by the preceding

Equipment Trust Agreement

clause (c)) at the Overdue Rate from the last date on which interest was due, whether such Certificates shall have then matured by their terms or not.

Amounts payable to the holders of Certificates pursuant to the foregoing clauses (c) and (d) shall be distributed to such holders in proportion to the unpaid principal amount of Certificates held by each of them, without priority of one over the other.

If after applying as aforesaid the sums of money realized by the Security Trustee there shall remain a surplus, whether cash or property, in the possession of the Security Trustee, such surplus shall be paid to the Owner Trustee.

SECTION 7.5. Right of Redemption. If, prior to any sale or other disposition of the Collateral contemplated by section 7.3 hereof, or the making of a contract therefor, or within ten days after the Security Trustee shall have notified the Owner Trustee of its intention to take possession of the Collateral, the Owner Trustee shall pay to the Security Trustee the total unpaid principal of all the Certificates then outstanding, together with premium, if any, and interest thereon accrued and unpaid and all other amounts due under this agreement, then in such event absolute right to the possession of and ownership of the Collateral shall pass to and vest in the Owner Trustee.

Upon any such sale, disposition, making of a contract, or expiration of notice period, the Owner Trustee shall cease to have any rights in the Collateral hereunder, and no payments theretofore made by the Owner Trustee in respect of the Collateral or any of it shall give to the Owner Trustee any legal or equitable interest or title in or to the Collateral or any of it or any cause or right of action at law or in equity in respect of the Collateral against the Security Trustee or the holders of the outstanding Certificates.

The foregoing right of redemption shall be available only during any period that the principal and interest on the Certificates shall be or have been declared immediately due and payable and such declaration shall not have been rescinded, all as contemplated by section 7.1 hereof.

SECTION 7.6. Enforcement of Claims Without Possession of Certificates. All rights of action and rights to assert claims under this agreement, or under any of the Certificates, may be enforced by the Security Trustee without the possession of such Certificates in any trial or other proceedings instituted by the Security Trustee, and any such trial or other proceedings shall be brought in its own name as trustee of an express trust, and

Equipment Trust Agreement

any recovery of judgment shall be for the ratable benefit of the holders of the Certificates. In any proceedings brought by the Security Trustee (and also any proceedings involving the interpretation of any provision of this agreement to which the Security Trustee shall be a party) the Security Trustee shall be held to represent all the holders of the Certificates, and it shall not be necessary to make any holders of the Certificates parties to such proceedings.

SECTION 7.7. Rights and Remedies Cumulative; No Waiver. Subject to the limitations of section 7.2 hereof, each and every right, power and remedy herein specifically given to the Security Trustee under this agreement shall be cumulative and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often and in such order as maybe deemed expedient by the Security Trustee, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy. No delay or omission by the Security Trustee in the exercise of any right, remedy or power or in the pursuance of any remedy shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of the Owner, the Owner Trustee or the Lessee or to be an acquiescence therein. No waiver in respect of any Event of Default shall extend to any subsequent or other Event of Default.

SECTION 7.8. Restoration of Rights and Remedies. In case the Security Trustee shall have proceeded to enforce any right, power or remedy under this agreement by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Security Trustee, or the Security Trustee shall have rescinded the declaration that the Certificates were immediately due and payable or rescinded any other action taken in exercise of remedies hereunder or under the Lease, then and in every such case the Owner, the Owner Trustee, the Security Trustee and the Lessee shall be restored to their former positions and rights hereunder with respect to the Collateral, and all rights, remedies and powers of the Security Trustee shall continue as if no such proceedings had been taken.

ARTICLE EIGHT THE SECURITY TRUSTEE

SECTION 8.1. Ministry of Trust. The Security Trustee

Equipment Trust Agreement

accepts the trusts hereby created and the duties applicable to it set forth herein and agrees to perform the same, but only upon the terms of this agreement.

The Security Trustee shall:

(a) issue and exchange Certificates in accordance with the terms of Articles Three and Four hereof;

(b) receive, invest, and disburse in accordance with the terms hereof and of the Participation Agreement all proceeds of the sale of Certificates and all amounts payable by the Owner Trustee or the Lessee or for the account of either of them hereunder and in respect of the Certificates;

(c) distribute to the holders of the Certificates copies of all financial statements, reports, and notices received by it as trustee hereunder (except to the extent that the Lessee is required to deliver statements or reports directly to such holders);

(d) consent to any remedy of inaccuracy contemplated by clause (E) of the first paragraph of Section 10 of the Lease, or accept as satisfactory an opinion regarding use of the Equipment in Mexico as contemplated by Section 12 of the Lease, or agree to transfer of interest by the Owner pursuant to clause (c) of section 4.2 of the Participation Agreement, in each case in accordance with the instructions of the holders of three-quarters in principal amount of outstanding Certificates;

(e) consent to any other action of the Lessee under the Lease or of the Owner Trustee hereunder for which the consent of the Security Trustee is required, in accordance with the instructions of the holders of two-thirds in principal amount of outstanding Certificates;

(f) take such action, or refrain from taking such action, with respect to an Event of Default or Lease Event of Default as the Security Trustee shall be instructed by the holders of a majority in principal amount of the outstanding Certificates; and

(g) perform all other acts and duties required to be performed by the Security Trustee by the terms of this agreement.

The Security Trustee acts hereunder solely as trustee herein and not in any individual capacity. All persons having any claim against the Security Trustee arising from matters relating to the

Equipment Trust Agreement

Certificates by reason of the transactions contemplated hereby shall, subject to the lien and priorities of payment as herein provided, look only to the Collateral for payment or satisfaction thereof, except in case of breach by the Security Trustee of its duties hereunder, and then only to the extent of such breach.

SECTION 8.2. Implied Duties. No implied duties or obligations shall be read into this agreement against the Security Trustee, the duties and obligations of the Security Trustee being determined solely by the express provisions of this agreement.

The Security Trustee shall not have any duty or obligation to manage, control, use, sell, operate, store, lease, dispose of or otherwise deal with the Equipment or any other part of the Collateral or otherwise to take or refrain from taking any action under, or in connection with, this agreement or any other document or any other action with respect to such Equipment except as expressly provided by the terms of this agreement or as expressly provided in instructions of the holders of a majority in principal amount of the Certificates.

SECTION 8.3. Care. The Security Trustee shall exercise the rights and powers vested in it by this agreement, and with respect to any Event of Default or Lease Event of Default, shall use the same degree of care and skill in such exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

SECTION 8.4. Holders of Certificates. In determining whether the registered holders of the requisite principal amount of Certificates outstanding have given any request or notice under this agreement, or directed the Security Trustee to take any action hereunder, or consented to any amendment or waiver hereof or to the Lease, Certificates owned by the Owner Trustee, the Owner, the Lessee, the Security Trustee, or any entity owning or controlling directly or indirectly, 25% of the voting shares of any thereof or controlled by or under common control with any thereof shall be disregarded and deemed not to be outstanding unless all of the Certificates are as of the date of determination owned by any one or more of such entities. In determining whether the Security Trustee shall be protected in relying upon any such request or notice, only Certificates that the Security Trustee knows to be so owned shall be disregarded.

SECTION 8.5. Attribution of Knowledge; Notice. In the absence of actual knowledge, the Security Trustee shall not be deemed to have knowledge of an Event of Default or Lease Event of Default or event that, with the passage of time or the giving of notice would become an Event of Default or Lease Event of

Equipment Trust Agreement

Default, except the failure of the Lessee to make any regular and periodic payment of rent on the Lease when the same shall become due.

If the Security Trustee shall have actual knowledge of an Event of Default, Lease Event of Default, or an event that, after the giving of notice or lapse of time would become an Event of Default or Lease Event of Default, the Security Trustee shall give prompt written notice thereof to the Owner Trustee, the Lessee, and each registered holder of a Certificate unless such Event of Default, Lease Event of Default, or event shall have been remedied within the appropriate grace period before the giving of such notice.

SECTION 8.6. Errors; Reliance; Selection of Counsel. The Security Trustee shall not be liable for any error of judgment made in good faith, unless the Security Trustee shall be grossly negligent in ascertaining the pertinent facts or such action or inaction shall be contrary to the express provisions of this agreement.

The Security Trustee may rely on any resolution, certificate, statement, opinion, report, notice, request, certificate or other instrument or document reasonably believed by the Security Trustee to be genuine.

The Security Trustee may consult with counsel reasonably believed by the Security Trustee to be competent in the matters in question, and may rely on any opinion of such counsel in taking any action in good faith not contrary to the express provisions of this agreement.

In the exercise of remedies hereunder and under the Lease, the Security Trustee may engage counsel reasonably believed by the Security Trustee to be competent in such matters, and if requested by the holders of a majority in principal amount of the Certificates, shall engage counsel selected by such holders to act for the holders of the Certificates.

The Security Trustee shall not be liable for any action taken or omitted to be taken in good faith in accordance with the direction of the holders of the requisite percentage of principal amount of Certificates specified for such action in this agreement.

SECTION 8.7. Limitations on Duties. The Security Trustee shall not manage, control, use, sell, operate, store, lease, dispose of or otherwise deal with the Equipment or any other part of the Collateral except in accordance with the powers granted to, or the authority conferred upon, the Security Trustee

Equipment Trust Agreement

pursuant to this agreement, or in accordance with the instructions of the holders of a majority in principal amount of the outstanding Certificates.

In case of an Event of Default or Lease Event of Default, if the Security Trustee shall not have received instructions from the requisite number of holders of Certificates as provided herein within 20 days after furnishing notice of such Event of Default or Lease Event of Default to the holders of the Certificates, the Security Trustee may, subject to instructions thereafter received pursuant to the preceding sentence, take such action, or refrain from taking such action, but shall be under no duty to take or refrain from taking any action, with respect to such Event of Default, Lease Event of Default, or event as it shall deem advisable in the best interests of the holders of the Certificates.

The Security Trustee shall not be required to take any action pursuant to instructions of the holders of Certificates nor shall any other provision of this agreement be deemed to impose a duty on the Security Trustee to take any action, if the Security Trustee shall have been advised by counsel that such action is contrary to the terms hereof or is otherwise contrary to law.

The Security Trustee shall not be required to take or refrain from taking any action under section 8.6 or Articles Two or Seven hereof (except the giving of the written notice declaring this agreement or the Lease to be in default pursuant to the terms hereof or thereof, as the case may be) unless the Security Trustee shall have been indemnified by such holders, in manner and form satisfactory to the Security Trustee, against any liability, cost or expense (including counsel fees) that may be incurred in connection therewith.

SECTION 8.8. Disclaimer. The Security Trustee makes no representation or warranty as to the accuracy of any recital set forth herein or the value, condition, merchantability or fitness for use of the Equipment or any other part of the Collateral or as to the title thereto, or any other representation or warranty with respect to the Equipment or any other part of the Collateral whatsoever.

SECTION 8.9. Resignation and Removal of Security Trustee; Appointment of Successor; Co-Trustees. The Security Trustee or any successor thereto may resign at any time without cause by giving at least 30 days' prior written notice to the Owner Trustee, the Lessee, and each registered holder of a Certificate. Such resignation shall be effective on the date of acceptance of appointment by a successor trustee as hereinafter provided. In

Equipment Trust Agreement

addition, the Security Trustee may be removed at any time without cause by notice of holders of a majority in principal amount of the Certificates delivered to the Security Trustee, and the Security Trustee shall promptly give notice thereof to each registered holder of a Certificate.

In the case of the resignation or removal of the Security Trustee, a successor trustee may be appointed by the holders of a majority in principal amount of the Certificates. If a successor trustee shall not have been appointed and accepted such appointment within 30 days after such notice of resignation or removal, the Security Trustee or any registered holder of a Certificate may apply to any court of competent jurisdiction to appoint a successor to act until such time, if any, as a successor shall have been appointed as above provided. Any successor so appointed by such court shall immediately and without further act be superseded by any successor thereafter appointed within one year from the date of the appointment by such court.

Any successor trustee, however appointed, shall execute and deliver to its predecessor and to the Owner Trustee an instrument accepting such appointment, and thereupon such successor, without further act, shall become vested with all the estate, properties, right, powers, duties, and trusts of its predecessor hereunder in the trusts under this agreement applicable to it with like effect as if originally named as the Security Trustee herein; but nevertheless upon the written request of such successor trustee its predecessor shall execute and deliver an instrument transferring to such successor trustee, upon the trusts herein expressed applicable to it, all the estates, properties, rights, powers, and trusts of such predecessor under this agreement and containing customary indemnities, and such predecessor shall duly assign, transfer, deliver and pay over to such successor trustee any property or amounts then held by such predecessor under this agreement.

Any successor trustee, however appointed, shall be a bank or trust company organized under the laws of the United States or any jurisdiction thereof having a combined capital and surplus of at least \$50,000,000, if there be such an institution willing, able, and legally qualified to perform the duties of the Security Trustee hereunder upon reasonable or customary terms.

Any corporation or national banking association into which the Security Trustee may be merged or converted or with which it may be consolidated, or any corporation or national banking association resulting from or surviving any merger, conversion or consolidation to which the Security Trustee shall be a party, or any corporation to which substantially all the corporate trust

Equipment Trust Agreement

business of the Security Trustee may be transferred, shall, subject to the terms of the next preceding paragraph, be the Security Trustee under this agreement without further act.

At any time or times, for the purpose of meeting the legal requirements of any jurisdiction in which any part of the Collateral may be located at the time, the Security Trustee shall have power to appoint one or more individuals, corporations, associations or trusts to act as co-trustee of all or any part of such Collateral or to act as separate trustee of any property constituting part thereof, in either case with such powers as may be provided in the instrument of appointment, and to vest in such co-trustee or separate trustee any property, title, right or power deemed necessary or desirable in the circumstances.

SECTION 8.10. Intermingling of Funds. All amounts received by the Security Trustee under or pursuant to any of the provisions of this agreement need not be segregated in any manner from any other amounts held in trust except to the extent required by law and may be deposited under such conditions as may be prescribed or permitted by law, so long as such amounts shall be properly accounted for by the Security Trustee and identified as to the source thereof.

SECTION 8.11. Compensation. The Security Trustee shall be entitled to reasonable compensation for its services hereunder and for expenses, including counsel fees, incurred in connection therewith, all of which shall be paid by the Lessee in accordance with the provisions of the Participation Agreement.

SECTION 8.12. Expiry of Trust. The trust created by this agreement shall terminate and the duties of the Security Trustee hereunder shall cease upon the release of the security interest hereof and the delivery by the Security Trustee of documents of release, all as contemplated by section 1.3 hereof. Any amounts held by the Security Trustee after such termination shall be paid over to the Owner Trustee.

ARTICLE NINE MISCELLANEOUS

SECTION 9.1. Method of Notice. Unless otherwise expressly specified or permitted by the terms hereof, all communications and notices provided for herein shall be in writing and shall become effective when delivered or the next day after being deposited in the United States mail with proper postage for overnight mail, prepaid, addressed as follows:

(i) if to the Owner, at its address set forth in the

Equipment Trust Agreement

Participation Agreement,

(ii) if to the Owner Trustee, at
777 Main Street
Hartford, Connecticut 06115
Attention of Corporate Trust Administration

(iii) if to the Security Trustee, at
One New York Plaza
New York, New York 10081
Attention of Corporate Trust Administration

(iv) if to the Lessee, at its address set forth in
the Lease, and

(v) if to any registered holder of a Certificate, at
the address of such registered holder set forth in the
register kept pursuant to section 4.1;

or to such other address as the Owner, the Owner Trustee, the Security Trustee or the Lessee, or its successors or assigns, may from time to time designate by notice duly given in accordance with this section to each other party.

SECTION 9.2. Indemnities to Survive. The right of the Security Trustee and the holders of Certificates to indemnify pursuant to section 6 and 9 of the Lease shall survive the release of the security interest in and assignment of the Lease contemplated by section 1.3 hereof.

SECTION 9.3. Change of Location of the Office of the Security Trustee. The Security Trustee shall notify the Owner Trustee, the Owner, the Lessee, and the registered holders of the Certificates of any change in location or address of its office where this transaction shall be administered and the register of the Holders maintained, in the manner set forth in section 9.1 hereof.

SECTION 9.4. Holders of Certificates. All representations, warranties, covenants, and agreements contained herein shall be binding on, and shall inure to the benefit of, the holders of the Certificates. Any request, notice, direction, consent, waiver, or other instrument or action by any holder of a Certificate shall bind the successors and assigns of such holder.

SECTION 9.5. Amendments and Waivers. The terms of this agreement shall not be waived, altered, modified, amended, supplemented, or terminated in any manner whatsoever except by written instrument signed by the Owner Trustee and the Security Trustee and consented to by the holders of the Certificates as

Equipment Trust Agreement

follows:

(a) any amendment or waiver that shall change the amount of principal, premium, or interest due on, or change the amount or date of payment of, any Certificate or release any Collateral (except as specifically provided in this agreement), and any amendment or waiver of this section 9.5 or any other provision hereof specifying a requisite proportion of holders of outstanding principal amount of the Certificates to direct, approve, request, or consent to any action by the Security Trustee, shall require the consent of all holders of outstanding Certificates; and

(b) any other amendment or waiver shall require the consent of the holders of two-thirds in principal amount of the outstanding Certificates.

The Security Trustee is hereby authorized to consent to any amendment or supplement to the Lease, pursuant to the first paragraph of section 3 thereof, adjusting the rental payments and Casualty Values payable under the Lease within the limitations set forth in said paragraph, without consent of the holders of the Certificates.

SECTION 9.6. Entire Agreement. This agreement and the other agreements and documents referred to herein constitute the final and entire expression of the agreement of the parties with respect to the matters contemplated hereby.

SECTION 9.7. Law Governing. This agreement shall be governed by, and construed in accordance with, the law of the State of New York, but the Security Trustee shall have all of the rights and benefits of section 11303 of Title 49 of the United States Code. Any reference herein to any statute shall mean and include any successor thereto.

SECTION 9.8. Recourse. This agreement is solely a corporate obligation and no recourse shall be had in respect of any obligation, covenant, or agreement of this agreement, or referred to herein, against the Owner (which shall have no obligations hereunder and none of whose rights or interests, except the trust estate of the Trust Agreement, are in any way granted or assigned hereunder) or any stockholder, incorporator, director, or officer, as such, past, present, and future, of the parties hereto by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of statute or otherwise.

The Owner Trustee is entering into this agreement solely as trustee under the Trust Agreement and not in its individual

Equipment Trust Agreement

capacity and in no case whatsoever shall The Connecticut National Bank or any person or entity acting as a trustee under the Trust Agreement be personally liable for, or for any loss in respect of, any of the statements, warranties, representations, agreements or obligations of the Owner Trustee hereunder except for the wilful misconduct or gross negligence of such person and except for statements, warranties, representations, agreements or obligations expressly made by it in its individual capacity.

SECTION 9.9. Invalidity of Provisions. Any provision of this agreement that may be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

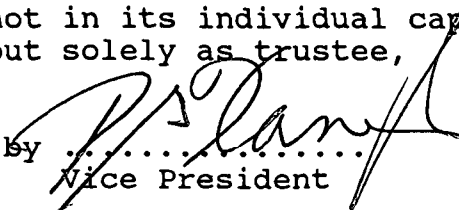
SECTION 9.10. Counterparts. This agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, all of which together shall constitute a single agreement.

SECTION 9.11. Effectiveness. Although this agreement is dated as of the date first above written for convenience, the actual dates of execution hereof by the parties hereto are respectively the dates set forth in the notaries' acknowledgments in respect thereof, and this agreement shall be effective on the latest of such dates.

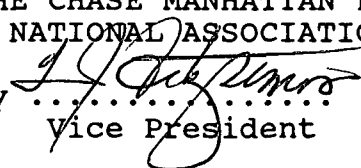
Equipment Trust Agreement

IN WITNESS WHEREOF, the parties hereto have each caused this agreement to be duly executed by their respective officers thereunto duly authorized:

THE CONNECTICUT NATIONAL BANK,
not in its individual capacity
but solely as trustee,

by 
Vice President

THE CHASE MANHATTAN BANK,
NATIONAL ASSOCIATION,

by 
Vice President

Equipment Trust Agreement

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

On this 18th day of July, 1991, before me personally appeared Philip Kane, to me personally known, who, by me being duly sworn, says that he is a Vice President of The Connecticut National Bank, and that the foregoing instrument was signed on behalf of said bank by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

My commission expires

D'INA PIERATTINI
Notary Public, State of New York
No. 4889511
Qualified in New York County
Commission Expires September 9, 1992 ✓

Dina Pierattini
.....
Notary Public

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

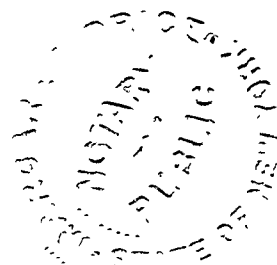
On this 19th day of July, 1991, before me personally appeared T. J. FITZSIMONS, to me personally known, who, by me being duly sworn, says that he is a Vice President of The Chase Manhattan Bank, National Association, and that the foregoing instrument was signed on behalf of said association by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

My commission expires

4/22/1993

Margaret M. Price
.....
Notary Public

MARGARET M. PRICE
Notary Public, State of New York
No. 24-4980599
Qualified in Kings County
Commission Expires April 22, 1993



Equipment Trust Agreement

SCHEDULE A

Thirty-five General Electric Company model Dash 8-40C 4000 horsepower, diesel-electric locomotives, manufacturer's serial numbers 46771 through 46805, bearing the road numbers of Chicago and North Western Transportation Company 8543 through 8577.

SCHEDULE B

Schedule of Principal Payments

<u>Payment Date</u>	<u>Percentage of Original Principal Amount</u>
Jan 1 1992	0.00000000%
Jul 1 1992	0.00000000%
Jan 1 1993	0.00000000%
Jul 1 1993	0.00000000%
Jan 1 1994	0.00000000%
Jul 1 1994	0.00000000%
Jan 1 1995	0.00000000%
Jul 1 1995	0.00000000%
Jan 1 1996	0.00000000%
Jul 1 1996	0.00000000%
Jan 1 1997	0.00000000%
Jul 1 1997	0.00000000%
Jan 1 1998	0.00000000%
Jul 1 1998	2.88771303%
Jan 1 1999	0.00000000%
Jul 1 1999	5.50890095%
Jan 1 2000	0.00000000%
Jul 1 2000	10.56991742%
Jan 1 2001	10.59722046%
Jul 1 2001	0.00000000%
Jan 1 2002	11.68457194%
Jul 1 2002	0.00000000%
Jan 1 2003	12.88349352%
Jul 1 2003	0.00000000%
Jan 1 2004	14.20543315%
Jul 1 2004	0.00000000%
Jan 1 2005	15.66301333%
Jul 1 2005	0.00000000%
Jan 1 2006	<u>15.99973620%</u>
Total	100.00000000%

ANNEX A

No.

\$

EQUIPMENT FINANCING NO. 1 OF 1991
SECURED BY LEASE OBLIGATIONS OF
CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

PPN: 20763# DM 0

Maximum Authorized Issue \$ 35,750,000.

The Connecticut National Bank, a national banking association (hereinafter called the Owner Trustee), acting as trustee under the Trust Agreement dated as of July 1, 1991, with General Electric Capital Corporation, a New York corporation, hereby promises to pay to, or registered assigns, the principal amount of \$..... in instalments as hereinafter provided, and interest on the unpaid principal balance thereof at a rate per annum equal to 9.76% from the date of this certificate to the date payment in full of the principal amount of this certificate is made. Interest shall be payable, to the extent accrued, on each January 1 and July 1, commencing on January 1, 1992. Principal shall be paid in instalments on each January 1 and July 1 commencing July 1, 1998, and ending January 1, 2006. The amount of each such instalment of principal shall be as set forth on the schedule attached hereto, subject to adjustment as provided in the Equipment Trust Agreement referred to below.

Interest payable from the date of this certificate to January 1, 1992, shall be computed on the basis of a 365-day year and actual days elapsed. Interest payable thereafter shall be calculated on the basis of a 360-day year of twelve 30-day months. This certificate shall bear interest, payable only from the funds designated below, at the rate of 11.76% per annum on any amount not paid when due for any period during which the same shall be overdue.

This certificate has been issued under and pursuant to the Equipment Trust Agreement dated as of July 1, 1991 (hereinafter called the Agreement), between the Owner Trustee and The Chase Manhattan Bank, National Association (hereinafter called the Security Trustee). The Agreement states the rights of the holders of, and the nature and extent of the security for, this certificate.

All payments of principal, premium, if any, and interest to be made by the Owner Trustee on this certificate shall be made only from the income and proceeds from the Collateral (as defined in section 6.2 of the Agreement) and the registered holder or other holder hereof, by its acceptance of this certificate,

agrees that, except as provided in the Agreement, it will look solely to the income and proceeds from the Collateral as above provided and that the Owner Trustee, the party for which it is acting as trustee, and the Security Trustee shall not be personally liable to the holder hereof for any amounts payable under the Agreement or under this certificate or, except as provided in the Agreement, for any liability under the Agreement.

Principal, premium, if any, and interest shall be payable in immediately available funds at the office of the Security Trustee in New York, New York.

This certificate is not subject to prepayment except upon the occurrence of certain events as provided in Article Five of the Agreement. Premium shall be payable in respect of such prepayment in the circumstances specified in section 5.1 of the Agreement.

In case an Event of Default under the Agreement (as defined in the Agreement) shall occur and be continuing, the unpaid principal of this certificate together with premium, if any, and accrued interest hereon may become or be declared due and payable in the manner, with the effect and subject to the conditions, provided in the Agreement.

Transfer of this certificate is registrable on the register maintained at the office of the Security Trustee upon surrender and cancellation of this certificate and compliance with the conditions of the Agreement. Any transferee hereof, by its acceptance of this Certificate, shall be bound by the terms and conditions of the Agreement and of the Participation Agreement dated as of July 1, 1991, among Chicago and North Western Transportation Company, General Electric Capital Corporation, the Owner Trustee, and the original holders of the certificates of this series, and shall be deemed to have made the representations and warranties made by the original holder hereof in said Participation Agreement.

This certificate shall not be valid for any purpose until the certificate of authentication hereon shall have been duly executed by the Security Trustee.

IN WITNESS WHEREOF, the Owner Trustee has caused this certificate to be duly executed by one of its officers thereunto duly authorized, as of the date hereof.

Dated: The Connecticut National Bank, not in its individual capacity but solely as trustee,

by
Vice President

This is one of the certificates of the series created by the within-mentioned Agreement.

The Chase Manhattan Bank, National Association

by
Assistant Vice President

(FORM OF SCHEDULE REFERRED TO IN FORM OF CERTIFICATE)

Payment

Amount of Payment
Principal Interest Total

Date